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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/295,577 | 04/22/1999 | RICHARD ARTHUR HALAVAIS | | 7340 |

7590          09/10/2002

THOMAS M. COESTER, ESQ.
BLAKELY, SOKOLOFF, TAYOR & ZAFMAN
12400 WILSHIRE BOULEVARD - SEVENTH FLOOR
LOS ANGELES, CA   90025

| EXAMINER |
|---|
| GILLIGAN, CHRISTOPHER L |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3626 | |

DATE MAILED: 09/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

# BEFORE THE BOARD OF PATENT APPEALS
# AND INTERFERENCES

Paper No. 14

Application Number: 09/295,577
Filing Date: April 22, 1999
Appellant(s): HALAVAIS ET AL.

MAILED

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Thomas M. Coester
For Appellant

## EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/12/02 in paper number 13.

*(1)* ***Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

*(2)     Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or

be directly affected by or have a bearing on the decision in the pending appeal is contained in

the brief.

*(3)     Status of Claims*

The statement of the status of the claims contained in the brief is correct.

*(4)     Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in

the brief is correct.

*(5)     Summary of Invention*

The summary of invention contained in the brief is correct.

*(6)     Issues*

The appellant's statement of the issues in the brief is correct.

*(7)     Grouping of Claims*

The rejection of claims 1-6, 11, 16, 17, and 24-34 stand or fall together because

appellant's brief does not include a statement that this grouping of claims does not stand or fall

together and reasons in support thereof.  See 37 CFR 1.192(c)(7).  However, appellant's brief

does include a different grouping of claims.

*(8)     Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

*(9)     Prior Art of Record*

| | | |
|---|---|---|
| 5,239,480 | Huegel | 8-1993 |
| 5,333,257 | Merrill et al. | 6-1994 |
| 5,621,430 | Bricklin | 4-1997 |

*(10)*  ***Grounds of Rejection***

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6, 11, 16, 17, 24, 26, 27, 29-31, and 34 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Huegel, U.S. Patent No. 5,239,480.

As per claim 1, Huegel teaches a method comprising: a) communicating on demand,

from an information server through a wide area network to a device connected to the wide area

network information from a database populated by a multiplicity of entries denoting availability

for a venue (see column 6, lines 10-19); b) displaying the information such that an end user

connected to the wide area network can view the information on a client node unafilliated with

the server as an aid in determining a best then available space conforming to a need of the end

user (see column 6, lines 56-62 and figure 3A); c) providing over the wide area network to the

end-user the capability of interactively selecting one of a time, a space, and a seat of choice

(see column 7, lines 3-15; column 7, lines 38-42, column 8, lines 9-20, and figure 3A); d)

accepting over the wide area network from the end user a payment for one of the time, the

space, and the seat selection of choice (see column 9, line 50 – column 10, line 15 and figure

3B); and e) returning over the wide area network to the end user verification of the successful

completion of the payment (see column 9, line 50 – column 10, line 15 and figure 3B).

The Examiner acknowledges that the self-service terminal of Huegel is not "a client node

unaffiliated with the server." However, the Examiner takes Official Notice and asserts that it is

well known in the art to provide the same services of a self-service terminal on an unaffiliated

computer connected to a network to an end user (checking the balance of a savings account via

an on-line banking web site instead of at an automated teller machine). It would have been

obvious to one of ordinary skill in the art of online commerce transactions at the time the

invention was made to incorporate this well-known teaching into the invention of Huegel. One

of ordinary skill in the art of would have been motivated to enhance the invention of Huegel in

such a manner so as not to limit end users to the locality of the self-service terminal.

As per claim 2, Heugel teaches the method of claim 1 as described above. Huegel

further teaches that the space, the time, and the seat sought are for a theatre or theatre type

setting (see figure 1 and figure 3A).

As per claim 3, Huegel teaches the method of claim 1 as described above. Huegel

further discloses that the space, the time, and the seat sought are for a stadium type setting

(see figure 1 and figure 3A).

As per claim 4, Huegel teaches the method of claim 1 as described above. Huegel

teaches a self-service ticket selection method as described above. Huegel does not explicitly

teach that the space or time or seat or seating sought is for an airplane or airliner. The

Examiner takes Official Notice and asserts that it is well known to use ticket reservation systems

to reserve airline tickets. It would have been obvious to one of ordinary skill in the art of

reservation systems at the time the invention was made to incorporate this well-known teaching

into the invention of Huegel. One of ordinary skill in the art would have been motivated to

modify the invention of Huegel in such a way to provide the end user with greater functionality

and purchasing capabilities.

As per claim 5, Huegel teaches the method of claim 1 as described above. Huegel does

not explicitly teach that the space or time or reservation sought is accommodations on a cruise

ship. The Examiner takes Official Notice and asserts that it is well known to use ticket reservation systems to reserve accommodations on a cruise ship. It would have been obvious to one of ordinary skill in the art of reservation systems at the time the invention was made to incorporate this well-known teaching into the invention of Huegel. One of ordinary skill in the art would have been motivated to modify the invention of Huegel in such a way to provide the end user with greater functionality and purchasing capabilities.

As per claim 6, Huegel teaches the method of claim 1 as described above wherein a communication connection between the information server and the end user includes one of a wire, a cable, and a telephone line connection (see figure 1).

As per claim 11, Huegel teaches the method of claim 1 as described above. Huegel does not explicitly teach that a communication connection between the information server and the end user includes a satellite link. The Examiner takes Official Notice and asserts that it is well known to transmit data via satellite means rather than hardwired means. It would have been obvious to one of ordinary skill in the art of reservation systems at the time the invention was made to modify the invention of Huegel in such a way so as not to limit the end user to the locality of the self-service terminal.

As per claim 16, Huegel teaches the method of claim 2 as descried above. Huegel does not explicitly teach that a communication connection between the information server and the end user includes a wireless link. The Examiner takes Official Notice and asserts that it is well known to transmit data via wireless means rather than hardwired means. It would have been obvious to one of ordinary skill in the art of reservation systems at the time the invention was made to modify the invention of Huegel in such a way so as not to limit the end user to the locality of the self-service terminal.

As per claim 24, Huegel teaches a method comprising: receiving at a server a request for a venue from at least one client node remote from and unaffiliated with the server (see column 6, lines 10-19); transmitting from the server an indication of specific availability responsive to the request, the indication of specific availability directed to the client node (see column 8, lines 9-20); receiving a specific indication of a client preference at the server (see column 9, lines 34-49); and removing the client preference from any future indication of specific availability (see column 9, lines 34-49).

The Examiner acknowledges that the self-service terminal of Huegel is not "a client node unaffiliated with the server." However, the Examiner takes Official Notice and asserts that it is well known in the art to provide the same services of a self-service terminal on an unaffiliated computer connected to a network to an end user (checking the balance of a savings account via an on-line banking web site instead of at an automated teller machine). It would have been obvious to one of ordinary skill in the art of online commerce transactions at the time the invention was made to incorporate this well-known teaching into the invention of Huegel. One of ordinary skill in the art of would have been motivated to enhance the invention of Huegel in such a manner so as not to limit end users to the locality of the self-service terminal.

As per claim 26, Huegel teaches the method of claim 24 as described above. Huegel further teaches that the indication of specific availability includes a graphical representation of at least a portion of a seating chart for the venue, and wherein the graphical representation shows availability seats in a first representation and previously sold seats in a second representation (see figure 4).

As per claim 27, Huegel teaches the method of claim 24 as described above. Huegel does not explicitly teach that the indication of specific availability is transmitted as one of a hypertext markup language page and a JAVA applet. The Examiner takes Official Notice and

asserts that it is well known to transfer and present data to an end user using a hypertext markup language page and a JAVA applet. It would have been obvious to one of ordinary skill in the art of reservation systems at the time the invention was made to incorporate this well-known teaching into the invention of Huegel. One of ordinary skill in the art would have been motivated to modify the invention of Huegel as such to provie the end user with data on a communly utilized medium.

As per claim 29, Huegel teaches the method of claim 24 as described above. Huegel further teaches that the method comprises: accepting payment information at the server sufficient to permit access to the specific client preference (see column 9, line 50 – column 10, line 15); conducting an electronic payment transaction (see column 9, line 50 – column 10, line 15); and providing an electronic receipt (see figure 5, printing of tickets).

As per claim 30, Huegel teaches a method comprising: requesting information about a venue across a wide area network from a client node to be supplied by a server node (see column 7, lines 3-15); receiving an indication of specific availability at the client node (see column 8, lines 9-20); selecting from a plurality of specific availability options a specific client preference (see column 9, lines 23-33); and receiving an indication that the specific client preference has been reserved through the server node (see column 9, lines 18-22).

The Examiner acknowledges that the self-service terminal of Huegel is not "a client node unaffiliated with the server." However, the Examiner takes Official Notice and asserts that it is well known in the art to provide the same services of a self-service terminal on an unaffiliated computer connected to a network to an end user (checking the balance of a savings account via an on-line banking web site instead of at an automated teller machine). It would have been obvious to one of ordinary skill in the art of online commerce transactions at the time the

invention was made to incorporate this well-known teaching into the invention of Huegel. One

of ordinary skill in the art of would have been motivated to enhance the invention of Huegel in

such a manner so as not to limit end users to the locality of the self-service terminal.

As per claim 31, Huegel teaches the method of claim 30 as described above. Huegel

further teaches that the indication of specific availability includes a graphical representation of at

least a portion of a seating chart for the venue, and wherein the graphical representation shows

available seats in a first representation and previously sold seats in a second representation

(see figure 4).

As per claim 34, Huegel teaches the method of claim 30 as described above. Huegel

further teaches that the method comprises: supplying payment information for the specific client

preferences (see column 9, line 50 – column 10, line 10); and receiving an electronic receipt

sufficient to permit access to the specific client preference (see figure 5, printing of receipt).


Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huegel, U.S.

Patent No. 5,239,480 in view of Merrill et al., U.S. Patent No. 5,333,257.

As per claim 25, Huegel teaches the method of claim 24 as described above. Huegel

does not explicitly teach retrieving from a database an image showing a view form a seat

indicated by the client preference; and transmitting the image to the client. Merrill et al. teach a

method for displaying selected assembly-facility seating views that comprises the steps of:

retrieving from a database an image showing a view form a seat indicated by the client

preference (see column 2, line 63 – column 3, line 19); and transmitting the image to the client

(see column 3, lines 20-25). It would have been obvious to one of ordinary skill in the art at the

time the invention was made to incorporate the teaching of Merrill et al. into the invention of

Huegel. One of ordinary skill in the art would have been motivated to make such an

enhancement to the invention of Huegel for the purpose of providing additional relevant data to the end user when the end user is deciding whether or not to buy the tickets.

Claims 28, 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huegel, U.S. Patent No. 5,239,480 and Merrill et al., U.S. Patent No. 5,333,257 and further in view of Bricklin, U.S. Patent No. 5,621,430.

As per claim 28, Huegel teaches the method of claim 26 as described above. Huegel does not explicitly teach linking the representation of a seat ot an image of an image of a view from that seat. Merrill et al. teach a system for displaying selected assembly-facility seating views (see column 2, line 63 – column 3, line 25). Bricklin teaches linking a representation of a seat to more detailed information about that seat (see column 16, line 51 – column 17, line 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Merrill et al. and Bricklin into the invention of Huegel. One of ordinary skill in the art would have been motivated to make such an enhancement to the invention of Huegel for the purpose of providing additional relevant data to the end user when the end user is deciding whether or not to buy the tickets.

As per claim 32, Huegel teaches the method of claim 31 as described above. Huegel does not explicitly teach that selecting comprises clicking on a desired seat. Bricklin teaches a selection process that comprises clicking on a desired seat (see column 16, line 51 – column 17, line 4, and figure 12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Bricklin into the invention of Huegel. One of ordinary skill in the art would have been motivated to make such an enhancement to the invention of Huegel for the purpose of providing additional relevant data to the end user when the end user is deciding whether or not to buy the tickets.

As per claim 33, Huegel, Merrill et al., and Bricklin teach the method of claim 32 as described above. Huegel does not explicitly teach receiving an image of a view from the desired seat responsive to the clicking. Merill et al. teach the step of receiving an image of a view from the desired seat (see column 2, line 63 – column 3, line 25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Merrill et al. into the invention of Huegel. One of ordinary skill in the art would have been motivated to make such an enhancement to the invention of Huegel for the purpose of providing additional relevant data to the end user when the end user is deciding whether or not to by the tickets.

## (11)    *Response to Argument*

In the Appeal Brief filed 12 June 2002, Appellant makes the following arguments:

A) In the invention of Huegel, the user does not have the ability to select a seat of choice.

B) Huegel does not teach a client node unaffiliated with a server, and the challenge of Official Notice taken by the Examiner did not receive a proper response.

C) Merrill et al. do not teach transmitting an image to a client since images are generated and stored locally.

D) The applied prior art does not teach or suggest a graphical representation showing available seats in a first representation and previously sold seats in a second representation.

E) Huegel does not teach availability transmitted as one of a hypertext markup language page and a Java™ applet.

F) Huegel does not teach accepting payment information at the server.

Examiner will address Appellant's arguments in sequence as they appear in the

brief.


Response to Argument (A):

In response to the first argument, the Examiner respectfully asserts Huegel does teach

this limitation in as much as it is recited in the claims.  For example, in independent claim 1, the

limitation of selecting a seat of choice is recited as "providing over the wide area network to the

end user the capability of interactively selecting one of a time, a space, and a seat of choice".

As originally argued in the Advisory Action (mailed 1/17/02, paper number 10), Huegel does

provide an end user with the capability of interactively selecting one of a time, a space, and a

seat of choice (see column 9, lines 7-10 and lines 23-27).  This process is carried out by

allowing the user to select an event of choice, select a date of choice, and select a preferred

seating area (see column 9, lines 7-10).  The location processor then returns the best available

seats that meet the user selected criteria (see column 9, lines 10-16).  Finally, the end user the

capability of either accepting the provided seats, choose seats in a different area, or cancel and

start the process over (see column 9, lines 23-33).

Appellant has responded by arguing that "there is no guarantee that the seat selection

algorithm employed by the location processor will ever return a preferred individual seat" (see

page 9, lines 15-16 of Appeal Brief, paper number 13).  In response, the location processor of

Huegel will always return a best available seat that meets the user selected event, date, and

seating area of choice.  Therefore, it is unclear to the Examiner how Appellant is interpreting the

invention of Huegel to determine that the location processor may never return a preferred

individual seat, and, more importantly, how this correlates to the limitations recited in the claims.

It should also be noted that independent claim 1 recites "selecting one of a time, a space, and a

seat of choice" (emphasis added). Therefore, the prior art need not teach selecting a time <u>and</u> a space <u>and</u> a seat of choice. Rather, it merely must teach selecting <u>one</u> of those criterion.

Appellant goes on to presents similar arguments with respect to independent claims 24 and 30. However, it is respectfully asserted by the Examiner that Appellant is applying far to narrow an interpretation to the claims as recited. For example, Appellant argues that in the invention of Huegel, "the user is not provided with the option of selecting a specific preference from a plurality of specific availability options (e.g., choosing a specific seat from the available seats)" (see page 15, line 21 – page 16, line 1 of Appeal Brief, paper number 13). Here, it appears that Appellant is giving weight to a limitation of choosing a specific seat from the available seats; however, such is not actually recited in the claims. As shown in detail above, the end user is provided with the option of selecting several specific preferences from specific availability options. Therefore, while the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Response to Argument (B):

In response to Appellants second argument, after reviewing the remarks, it appears that there is some confusion as what grounds the Official Notice is being relied upon. Therefore, as an initial matter, it should be noted that the Examiner has merely relied upon Official Notice for the limitation of a client node that is unaffiliated with a server node. Furthermore, it should be noted that "unaffiliated" has been interpreted by the Examiner as "remote from". In other words, the Examiner has relied on Official Notice to suggest that it would have been obvious to one of ordinary skill in the art to embody the invention of Huegel in an environment where the client node is located remote from the server node. Given that no further definition of "unaffiliated"

can be found in either the claims or the specification, the Examiner respectfully asserts that this is a reasonable interpretation. In addition, the Huegel reference itself even suggests that such an embodiment would be possible (see column 10, lines 60-64).

Moreover, The Examiner respectfully submits that Applicant is not the first to invent a computer architecture where same services may be provided on a client node that is unaffiliated with a server and a client node that is affiliated with a server. An example of this well known architecture was initially provided by the Examiner in the first Office action, mailed 1/16/01 in paper number 4 (i.e., an on-line banking web site versus an automated teller machine). The courts have held that even if a patent does not specifically disclose a particular element, said element being within the knowledge of a skilled artisan, the patent taken in combination with that knowledge, would put the artisan in possession of the claimed invention. *In re Graves*, 36 USPQ 2d 1697 (Fed. Cir. 1995).

It should also be noted that Appellant never addressed the example of an on-line banking web site versus an automated teller machine in the initial response to the first Office Action (see pages 2-6 of Amendment and Response to Office Action, filed 4/11/01 in paper number 6).

Response to Argument (C):

In response to Appellant's third argument, the Examiner respectfully asserts that in order for an image to be displayed on a client, it must first be transmitted from wherever it is initially stored. Miller et al. clearly teaches transmitting an image from a database showing a view from a seat (see column 3, lines 11-25). In addition, Appellant appears to have attacked the Miller reference alone without taking into consideration the combination of the reference along with the knowledge available to one of ordinary skill in the art at the time the invention was made. One

cannot show nonobviousness by attacking references individually where the rejections are

based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA

1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Response to Argument (D):

In response to the argument that Huegel does not show available seats in a first

representation and previously sold seats in a second representation, the Examiner asserts that

does show available seats in a first manner and reserved seats in a second manner (see

column 8, lines 56-65). Furthermore, this graphical representation displays all seats in the

selected area, available or not. Therefore, it is respectfully asserted that this graphical

representation shows available seats in a first representation and previously sold seats in a

second representation.

Response to Argument (E):

In response to Appellant's argument that Huegel does not teach availability transmitted

as one of a hypertext markup language page and a Java™ applet, the Examiner took Official

Notice that this feature was old and well known at the time of the invention (see pages 7 and 8

of the Office Action mailed 1/16/01 in paper number 4). The Official Notice was not seasonably

traversed (see pages 2-6 of Amendment and Response to Office Action, filed 4/11/01 in paper

number 6), therefore, the Examiner took the lack of traverse as an admission of prior art (see

MPEP 2144.03).

Moreover, the Examiner respectfully submits that since Applicant has admitted, through

lack of seasonable traverse, that this feature is within the knowledge of the skilled artisan, the

courts have held that even if a patent does not specifically disclose a particular element, said

element being within the knowledge of a skilled artisan, the patent taken in combination with

that knowledge, would put the artisan in possession of the claimed invention. *In re Graves*, 36

USPQ 2d 1697 (Fed. Cir. 1995).


Response to Argument (F):

In response to Appellant's final argument, the limitations recited in the claims only

require that payment information is accepted at the server sufficient to permit access to the

specific client preference (see claim 29).  While the Examiner admits that credit card

transactions are conducted through a credit card payment authority in the system of Huegel, it is

also respectfully asserted that the server receives payment information sufficient to permit

access to the specific client preference.  For example, when the user decides on the date,

event, and location of choice, the network server is provided with information that indicates the

number of seats at a given price that the user wishes to purchase (see column 8, lines 25-44).

In addition, it should be noted that while the claim does require the server to receive

payment information sufficient to permit access to the specific client preference, it does not

require the actual payment transaction to take place through the server.  Therefore, while the

claims are interpreted in light of the specification, limitations from the specification are not read

into the claims.  See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Christopher L. Gilligan
Assistant Patent Examiner
Tech Center 3600

CLG
September 9, 2002

Conferees

J,T.
Joseph Thomas
Supervisory Patent Examiner
Tech Center 3600

JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Kyle Choi
Primary Examiner
Tech Center 3600


THOMAS M. COESTER, ESQ.
BLAKELY, SOKOLOFF, TAYOR & ZAFMAN
12400 WILSHIRE BOULEVARD - SEVENTH FLOOR
LOS ANGELES, CA 90025